

## Exhibit 5



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# **A Murder, a Conspiracy Theory, and the Lies of Fox News**

The murder of Seth Rich was a family tragedy. Fox News helped make it a national spectacle that has haunted his loved ones for years

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Jim Watson/AFP/Getty Images

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**H** **E WAS ALMOST home.** In the early-morning hours of July 10th, 2016, Seth Rich walked alone across northwest Washington, D.C., making calls to his friends and family, thinking about his future.

Like so many idealistic twentysomethings, he had moved to the nation's capital after college to work in politics. It was the first place he'd lived outside of Omaha, and he'd gradually found his way, falling in with a group of fellow strivers, biking everywhere, cooking out, and playing soccer on the weekends. A glorified internship at a polling firm led to a job at the Democratic National Committee registering new voters and protecting against voter suppression. Days earlier, he'd gotten an offer to join Hillary Clinton's presidential campaign in Brooklyn. Sitting in his drafts folder was the start of an acceptance email: "All my life I wanted to be in a position that I can make a difference...."

Yet he felt conflicted. Taking the Clinton job would mean months away from the people he loved, the life he'd built. Earlier that night, he had called his father, Joel, who had already gone to bed. He tried his older brother, Aaron, in Colorado, but they missed each other's calls.

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It was past two in the morning on the walk home when his girlfriend picked up. She stayed on the phone with him for more than two hours, until he was a block from his front door. She heard voices in the background. "I gotta go," Seth calmly said, then hung up.

A neighbor heard gunshots and looked at the clock: 4:19 a.m. The police raced to the scene and found Seth in the street, shot but still breathing, and the paramedics rushed him to the hospital. A few hours later, Seth's parents, Joel and Mary, received another call: Their youngest son, Seth Conrad Rich, age 27, was dead.

He was the 67th homicide victim of the year in Washington, D.C. Seth's neighborhood had suffered a rash of armed muggings, and there were clues to suggest a physical altercation — a rip on his watch wristband, bruising on his hands and face — but nothing was taken from him, leading the police to call the crime an attempted robbery gone wrong.

The local news ran a photo of Seth from after he had moved to Washington: Sandy-haired and clean-shaven, dressed in a starter suit and candy-striped tie, he stands with his arms folded and a wry look on his face, the Washington Monument off in the distance. On July 13th, his body was buried at Beth El Cemetery in Omaha. "There are no answers for a young man gunned down in the prime of his life," his family's rabbi eulogized. "All we have is questions of what could have been, what should have been, and talk of potential greatness for which we will never bear witness."

**Ten months later**, the cameras went live for the latest episode of *Hannity*, one of the most-watched cable-news shows in America. As the words "Murder Mystery" flashed onscreen, Fox News host Sean Hannity, gazing straight into the camera, began his show by informing his audience of "explosive developments" in a "massive breaking news story." The bombshells that he was going to deliver, Hannity told the 2.4 million viewers of his May 16th, 2017, show, could lead to "one of the biggest scandals in American history."

That morning, FoxNews.com had published a story claiming the existence of an FBI report that named murdered DNC staffer Seth Rich as the source for thousands of stolen DNC emails published by WikiLeaks in the summer of 2016. U.S. intelligence agencies, members of Congress, and cybersecurity experts had said hackers working for the Russian government carried out the election-year cyberattack on the DNC. But according to Fox, the DNC hack was an inside job — and the FBI knew it. The story even quoted a private investigator hired by Rich's family who asserted that Rich had sent the emails to WikiLeaks.

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"Now, let me connect the dots," Hannity told his audience. Hannity was arguably the most influential TV host in America, a friend and confidant to the president of the United States, with whom he spoke regularly. If a

“disgruntled” Democrat had leaked the emails, Hannity said, it “could completely shatter the narrative that, in fact, WikiLeaks was working with the Russians,” and, further, could mean that Rich was murdered “under very suspicious circumstances.” Maybe Rich “was upset,” he went on, “that the DNC was conspiring to hurt Bernie Sanders and help Hillary Clinton win the nomination.” Later in the show, Hannity interviewed Rod Wheeler, the investigator hired by the Riches and quoted in the Fox News story, who said it “sure appears” that Rich communicated with WikiLeaks.

For the next week, Hannity boosted Fox’s story on Twitter, on his radio show, and on the network, to a combined audience of many millions. Rich’s murder “sounds like a hit,” he said. People who called the Rich-WikiLeaks story a conspiracy theory “might regret it when more information comes out.” But even as Hannity was championing the story as a revelation that could rewrite history, Fox News’ Seth Rich scoop was already falling apart.



**This is the true story** of an untrue story. It's the story of how Fox News took a conspiracy theory from the online fringes and mainstreamed it into global news. It's the story of how a Fox News staff writer, a Fox News paid contributor, and a Fox News unpaid commentator worked together to win the trust of a family wracked by grief and then used their imprimatur to publish a "sham story" that would become an article of faith in MAGA culture. It's the story of how Fox News and some of its biggest stars have so far escaped any accountability for actions whose consequences continue to haunt the Rich family.

This story draws on tens of thousands of pages of court documents and interviews with dozens of key figures, including people close to the Rich family. (The family declined to be interviewed for this story.) The court records include newly revealed text messages, emails, voicemails, and sworn testimony that show how Fox ignored journalistic norms and basic human decency to publish and promote a fiction that could "solve" the problem of Russia's interference in the 2016 election and Trump's welcoming of Russia's help. "The most generous way to look at it is Fox News didn't do their job," says Kelly McBride, a senior vice president and journalism ethics expert at the Poynter Institute. "The less generous way to look at it would be they didn't even try to do their job. And if they didn't even try, the obvious question is 'Why?'"

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Mary Rich, Seth's mother, has described seeing Seth's life and death exploited by Fox News as akin to her son being murdered again: "We lost his body the first time, and the second time we lost his soul." But instead of grieving, the Rich family has spent the past four years trapped in a never-ending struggle they never wanted to be a part of, a fight to prove a negative: that Seth, a junior-level DNC employee, *wasn't* actually a secret player in a high-stakes game of geopolitical intrigue. They've watched as Seth's story has taken on a hideous new life of its own online, where no one's grief is off limits and no amount of evidence can overcome the power of dogma and suspicion. Their fight began in the court of public opinion but has moved to the court of law, a test of whether the victims of viral conspiracy theories and online disinformation can find justice in the social media era.

**Aaron Rich** saw the rumors first. Within 36 hours of his brother's murder, online commenters were spinning wild theories. "It gives me no joy to post this," a Reddit user named kurtchella wrote, "but given his position & timing in politics, I believe Seth Rich was murdered by corrupt politicians for knowing too much information on election fraud." As the theories spread, Seth's rank-and-file job was incorrectly inflated and kept getting more so with each telling, from a "DNC official" to a "top U.S. Democratic Party official" to the person at the DNC "in charge" of preventing election fraud.

At first, Aaron would later tell an interviewer, he found a "morbid humor" in this nonsense. "We were joking that Seth would be happy if he envisioned a parade of people, his friends and family on one side of the street and conspiracy theorists on the other," he said.

Then the parade turned into a riot. A month after the murder, WikiLeaks founder Julian Assange gave an interview in which he dangled Seth's name in such a way that made people think Seth was the source of the stolen DNC emails published by WikiLeaks. (A lawyer for Assange did not respond to requests for comment.)

To those who knew Seth best, this was absurd. He was no technical mastermind. He was far more likely to get locked out of his own email account than hack into someone else's, a former colleague tells *Rolling Stone*.

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Still, Assange's comments, and a \$20,000 reward offered by WikiLeaks for information about Seth's murder, inflamed the conspiracy theories. Joel, Mary, and Aaron were unsure how to respond to the flood of media requests. The Riches were the furthest thing from political insiders, with almost no experience talking to journalists or managing through a crisis. When friends of Seth's connected them with a PR consultant named Brad Bauman who offered to help, they readily accepted. Bauman, who tells *Rolling Stone* he thought he was signing up for a few weeks' worth of pro bono work, issued a statement that asked the public "to refrain from pushing unproven and harmful theories about Seth's murder."

The still-grieving Riches tried to keep their focus on finding the killer. But as the police investigation dragged on month after month, they began to confront the possibility they might never know who killed Seth.

On December 16th, 2016, Joel received a call from a man named Ed Butowsky. A financial adviser who lived in Texas, Butowsky had secured an introduction to Joel from someone who attended the same synagogue as the Riches. He had never met Joel, Mary, or Aaron, but in multiple calls and emails over a span of several months, he said he sympathized with their plight and wanted to help. He eventually offered to pay for a private investigator on behalf of the family to help solve the murder.

From his website, the Riches saw that Butowsky was a successful businessman who appeared on TV and guest-lectured at prominent universities. While they were skeptical of this complete stranger's eagerness to assist them, according to people close to the Riches, Butowsky was willing to pay for something Joel and Mary themselves couldn't afford. "I couldn't bring myself to tell them not to accept it," Bauman, the family's PR rep at the time, tells *Rolling Stone*. "I honestly feel like this might be one of my greatest failures as a human being ever, because I was in a position where I could have stopped something fucking horrible from happening."

**There was more to** Butowsky than he let on. Inside Fox, he was seen as a "green-room creature," in the words of a former Fox host, a glad-handing backslapper who hobnobbed with the talent and the guests. "Everyone knew who Ed was," a former Fox on-air personality tells *Rolling Stone*. He befriended Fox journalists and introduced them to sources in his network. "Behind the scenes, I do a lot of work (unpaid) helping to uncover certain stories," he later told an associate. "My biggest work was revealing most of what we know today about Benghazi," referring to the 2012 attack on U.S. facilities in Libya that led to the deaths of four Americans.

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The way Butowsky tells it, he took an interest in Seth Rich after a conversation with Ellen Ratner, a journalist he knew from the Fox green room. Ratner's late brother was Michael Ratner, a famous civil rights lawyer who had helped lead the Center for Constitutional Rights and was

one of WikiLeaks' U.S. lawyers. On the eve of the 2016 election, Ratner and her family met with Assange in London. During that meeting, Ratner would later say, Assange claimed the DNC email leak could have come from an "internal source" or an "enemy" of the Clintons, and that Russia "got credit for something WikiLeaks should have gotten credit for."

Butowsky, however, says Ratner passed along to him another detail from her Assange meeting: that Assange named Seth Rich as his source. However, Ratner, who declined to be interviewed, has said this was false, telling Yahoo News that Rich's name never came up in her meeting with Assange and that Butowsky's version of events "did not happen." (A lawyer for Butowsky sent *Rolling Stone* an email and a text message between Butowsky and Ratner to corroborate his story, but neither mentions Rich.)

Butowsky says his interest in Rich was further piqued after a phone call with the investigative journalist Seymour Hersh in January 2017. Unbeknownst to Hersh, Butowsky recorded part of their conversation. Hersh said he had "somebody on the inside who will go and read a file for me," and he'd heard about an FBI report about Rich trying to sell emails to WikiLeaks. Near the end of the call, though, Hersh cautioned that because he'd heard something "doesn't make it true."

Hersh tells *Rolling Stone* the information he passed to Butowsky was "all just musing" that "turned out not to be true." While he remains skeptical of the intelligence community's assessment that Russia interfered in the 2016 election, Hersh says he was trying to get information out of Butowsky, not the other way around. But what Hersh intended as gossip, Butowsky apparently took as gospel.

Butowsky sent the recording of Hersh to the Rich family and even told them to search Seth's bank accounts for payments from WikiLeaks. But after the Riches responded that there was no evidence to support that theory, Butowsky offered to pay for a private investigator on their behalf and urged them to hire a man named Rod Wheeler, a former-D.C.-cop-turned-law-enforcement-analyst for Fox News. That Wheeler wasn't a licensed private investigator — by day, he worked as a food-safety consultant — didn't deter Butowsky. (Butowsky says he interviewed six other potential PIs who were all "very expensive," and that Wheeler came recommended by a Fox News analyst he knew. Since the publication of this story, Butowsky has said he didn't know Wheeler was unlicensed when he recommended Wheeler to the Rich family.)

Butowsky tells *Rolling Stone* his motives with the Rich family were simple: He wanted to help a grieving family find closure. But the recording of his conversation with Hersh suggests another reason. At one point, Butowsky tells Hersh he has “a great history” of “getting things out there, where nobody knows that I’m the one who did it,” and that he’s “just trying to get something in my hands that I can get public about.” If Hersh’s talk about Rich selling emails to WikiLeaks is true, Butowsky says, it can “solve the problem about Russians [being] the ones that gave the emails, because that did not happen.”

**The Rich Family** felt hopeful for the first time in months. Since Butowsky was willing to foot the bill for Wheeler’s services, they didn’t have to stress about costs. Joel and Aaron spoke with Wheeler and came away encouraged.

The family didn’t have access to powerful attorneys, and so Aaron’s wife, Molly, a lawyer, helped write a contract and negotiate the terms. A key sticking point was Wheeler’s proposal to serve as the family’s media representative. The Riches declined and insisted that their agreement with Wheeler include strict confidentiality terms.

As the negotiations played out for more than a week, Butowsky seemed to grow anxious and discussed how to “kick-start” the Riches into finalizing the agreement with Wheeler, according to court documents. “If you don’t get the agreement back this morning, I’m going to leave Joel a nice but somewhat uncomfortable message,” Butowsky texted Wheeler on March 14th, 2017.

Later that day, Wheeler and the Riches signed the contract. The final agreement noted that Butowsky would pay for Wheeler’s services and forbid Wheeler from discussing his investigation with third parties without the family’s permission — including Butowsky.

**“I told you** you’re wasting time, Rod,” Butowsky said to Wheeler over the phone one day in the spring of 2017, according to testimony by Wheeler.

Wheeler was walking the streets of Washington’s LeDroit Park neighborhood, a few blocks from where Rich was shot, talking to people and looking for tips, when Butowsky called him. But when Wheeler

explained that these were the fundamentals of a murder investigation, his benefactor grew angry. “I’m not going to need to use you if you don’t, you know, if you don’t do like I told you,” Wheeler testified Butowsky told him. (Butowsky denies this, telling *Rolling Stone* that “I’ve never said anything like that” to Wheeler.)

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A goateed man in his late fifties with a nasally Midwestern accent and a thick build, Wheeler tells *Rolling Stone* he wouldn’t have paid any attention to Butowsky if Butowsky hadn’t touted his connections to Fox News. Wheeler had worked as a paid law-enforcement analyst at Fox for more than a decade and was typically introduced on-air by Fox hosts as a “former D.C. homicide detective,” even though he had never earned the rank of detective, according to a spokeswoman for the D.C. police department.

Whatever his gumshoe credentials, Wheeler says he kept his focus on solving Rich’s murder. But text messages and emails filed in court show Wheeler had ambitions of his own. “I’ve got to find a way on the Trump team,” he texted Butowsky on April 12th, 2017, floating the idea of working at FEMA. Butowsky responded by sending Wheeler contact information for then-White House Press Secretary Sean Spicer. In another text produced in court, Butowsky told Wheeler that “once we get the story out, you will be one of the most recognize[d] names in America.”

Despite his confidentiality agreement with the Rich family, Wheeler kept Butowsky updated on the status of his investigation, according to text messages and emails filed in court. Their correspondence shows a pattern in which Butowsky consistently shows more interest in absolving the Russians of the DNC hack than in helping the Riches solve Seth’s murder. With the family’s help, Wheeler secured an interview with Joseph Della-Camera, the D.C. detective leading the investigation into Seth’s murder, and made sure Butowsky knew about it. The night before the interview, Butowsky sent Wheeler an email: “Della-Camera is either helping us or we will go after him as being part of the coverup.”

**Reward money and** media attention are typically the two best ways to generate leads and informants in a difficult murder investigation. The Riches were a middle-class family. Mary, the family’s chief breadwinner,

had lost her job shortly before Seth's death. They didn't have the wealth to put up more reward money, and so they took most interview requests that came their way, whether from *The Washington Post* or the *Daily Mail* tabloid. They invited a TV crew from *Crime Watch Daily* into their home.

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These efforts to keep Seth's name in the news were sometimes turned against them. Photos of Seth provided by the family to reporters were repurposed into conspiratorial memes. A video of Joel and Mary thanking people who had donated to a GoFundMe page was twisted into evidence that the family supported the self-anointed online sleuths pushing wild theories about Seth. "Their attitude in the early stages was 'We'll talk to anybody because bringing more attention to this is the only thing that will get it solved,'" the former colleague of Seth's tells *Rolling Stone*. "Some people were well-intentioned and some weren't."

When a FoxNews.com reporter named Malia Zimmerman emailed Joel in January in hopes of writing "a feature story" about Seth to "bring further attention to his case," Joel agreed to cooperate. The reporter asked about Seth's life and his work at the DNC, but also pressed Joel on the WikiLeaks theory, which he vehemently denied. A few days later, the story appeared: "Slain DNC Staffer's Father Doubts WikiLeaks Link as Cops Seek Answers."

Joel felt stung. The Riches decided they would decline to participate in future stories with Fox News, and with Zimmerman in particular.

GOP activist and “greenroom creature” Ed Butowsky. AP PHOTO/LM OTERO

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**There had been** a third recipient on Butowsky’s “part of the coverup” email: Malia Zimmerman, who was working with Butowsky and Wheeler without the Rich family’s knowledge. Before one of Wheeler’s first calls with Joel Rich, Butowsky urged him to “[m]ake sure to play down Fox News, don’t mention you know Malia.” Throughout the spring of 2017, Zimmerman kept chasing the story of Seth Rich and WikiLeaks. Emails filed in court — including Butowsky’s “coverup” email — show that Zimmerman kept hitting dead ends. A spokeswoman for the FBI’s Washington Field Office said its agents were “not assisting now and have not assisted in the past” on any case related to Rich. The D.C. police denied Zimmerman’s request for any crime-scene footage, citing the ongoing murder investigation. And Della-Camera, the detective assigned to the Rich murder case, told Wheeler he’d seen no evidence to support the theories about Rich and WikiLeaks, according to Wheeler’s notes on the meeting later filed in court.

But with the addition of Wheeler, Zimmerman had a new way to get information. She described Wheeler’s final contract with the family as “a win” because it didn’t limit his investigation to “a street crime,” presumably meaning he could pursue other, more politically motivated theories for the murder. She sent him a list of questions for the family and urged him to get access to Seth’s email and social media accounts. (Wheeler would later ask Zimmerman if he could “share” with a Fox News executive in New York “the fact that we are working together on an investigation” in an effort to secure a permanent job at Fox.)

The other conduit for Zimmerman was Butowsky himself. Cellphone records filed in court show that between December 2016 and June 2017, Zimmerman and Butowsky spoke by phone 571 times and exchanged 480 text messages. (Butowsky tells *Rolling Stone* he and Zimmerman spoke

about many subjects unrelated to Rich.) On April 29th, Zimmerman sent a full draft of her story to Butowsky. According to an email filed in court, Zimmerman told Butowsky, “I need to confirm the bold sections” in the draft. The bolded sections were the most explosive ones: that unnamed “investigators” had discovered emails between Rich and WikiLeaks during “a forensic search” of his work computer, and that Rich leaked the emails “possibly to expose the [DNC’s] bias against Sanders.” It appeared, in other words, that she had written the story she wanted to publish before having the sourcing to back it up.

Butowsky, Zimmerman, and Wheeler looked to prominent Republicans for help. But a White House meeting with Sean Spicer didn’t amount to anything. Next, Butowsky and Zimmerman turned to Congressman Devin Nunes, a staunch Trump ally and then-chairman of the House Intelligence Committee.

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Nunes had already been on their list of possible sources. In a March 31st email filed in court, Zimmerman told Butowsky and Wheeler that Nunes “needs to help us.” Butowsky wrote back, “I will get very aggressive with Devin over the weekend.” In early May, Butowsky helped arrange a meeting between Wheeler and Kash Patel, an investigator for Nunes on the Intelligence Committee. Butowsky texted Wheeler that the “main goal” with Patel was “to get him to get the FBI record” and “give us a wink to go story [sic] that the emails are there.”

Whatever “FBI record” or “wink” Butowsky was hoping for, Wheeler tells *Rolling Stone* that he didn’t get it. For his part, Butowsky says Wheeler and Patel met to discuss getting whistleblower protection for Della-Camera, who, according to Butowsky, “wanted to expose the coverup.” However, a spokeswoman for the D.C. police says Della-Camera never sought such status. (Patel, who did not respond to requests for comment, went on to work for the Trump White House’s National Security Council and then as an adviser in the Office of the Director of National Intelligence.)

Just when it seemed like Wheeler’s investigation was going nowhere, he got a call from Butowsky and Zimmerman on May 10th, court records show. They claimed they had found a source for their Rich-WikiLeaks allegation.

Court records don't say who this source was — or if he or she even existed. But one email filed in court offers a clue about the information this supposed source might have provided. On May 11th, Zimmerman wrote to the CEO of a cybersecurity company that “reliable sources” had told her Rich may have been killed in “a hit” by “Romanian hackers” as revenge for selling the DNC emails to WikiLeaks. Her “sources” said there might be information about Rich and WikiLeaks on the dark web, Zimmerman explained, and she asked the CEO to search the dark web for her. The search turned up nothing, emails show.

Still, with one source supposedly secured, Butowsky pressured Wheeler to finish his investigation. On May 14th, Butowsky left a voicemail for Wheeler: “We have the full attention of the White House on this.... And tomorrow let's close this deal.” He also sent a text: “Not to add any more pressure but the president just read the article. He wants the article out immediately. It's now all up to you. But don't feel the pressure.” (The White House has denied any involvement or knowledge of Zimmerman's story. Butowsky says these comments were “just bluster” and that he has never spoken with President Trump.)

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The following day, Zimmerman called Wheeler to tell him that her bosses at Fox “want her to go” with the story, Wheeler later testified. Throughout that day, Zimmerman sent Wheeler and Butowsky several drafts of her story. The only source cited besides an unnamed federal investigator was Wheeler himself, and the draft now included two on-the-record quotes from Wheeler that had not appeared in earlier versions. Wheeler also texted Zimmerman a third quote to use, court records show: “I do strongly believe that the answers to who murdered [Rich] sits on his computer on a shelf at the [MPDC] or FBI headquarters!”

Early on the morning of May 16th, 2017, Butowsky gave a heads-up to a group of producers and hosts at Fox about Zimmerman's forthcoming story:

“The story is or will be up very early tomorrow morning. Rod Wheeler is up and ready to give interviews.... If you have any questions about the story or more information needed, call me. I'm actually the one who's been putting

this together but as you know I keep my name out of things because I have no credibility. One of the big conclusions we need to draw from this is that the Russians did not hack our computer systems and ste[a]l emails and there was no collusion like trump with the Russians.”

Butowsky also sent talking points to Wheeler, according to text messages later filed in court: “The narrative in the interviews you might use is that your and Malia’s work prove that the Russians didn’t hack into the DNC and steal the emails and impact our election.”

**On the morning** of Tuesday, May 16th, 2017, Brad Bauman, the Rich family’s spokesman, began his day by checking the Drudge Report, the widely read news-aggregation site, and saw Seth Rich staring back at him on the page. It was the same photo of Rich that circulated after the murder — wry grin, arms folded, Washington Monument in the distance. But now the photo appeared next to a very different headline: “Dead DNC Staffer ‘Had Contact’ With WikiLeaks.”

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Drudge linked not to Zimmerman’s story but to an interview Wheeler had given to the local Fox affiliate for D.C., which quoted him saying it was “confirmed” that Rich had exchanged emails with WikiLeaks. (Wheeler has said he intended the interview to be a “teaser” for Zimmerman’s story; instead, the local Fox affiliate used it to scoop Fox News.) By 8 a.m., FoxNews.com had published Zimmerman’s story. It claimed that Seth had been the source for all 44,053 emails and 17,761 documents stolen from the DNC and published by WikiLeaks. Zimmerman’s story cited two sources: an anonymous “federal investigator” who had read a purported FBI report about Rich’s contacts with WikiLeaks, and Wheeler, identified as a private investigator “hired by Rich’s family to probe the case.”

The two spurious stories blazed across the internet. A flurry of follow-up coverage appeared on news outlets around the world. Watching Seth’s name ricochet yet again across the internet in connection with a cruel conspiracy theory was like “living in a nightmare you can never wake up from,” Joel and Mary later said. The pain was “unbearable.”

The Riches also felt betrayed. “Joel and Mary kept saying to themselves, ‘How can they be saying this?’” Bauman, the family’s PR rep, tells *Rolling Stone*. “People we trusted — how could they be going against us?”

Bauman went into rapid-response mode. Any new story about Seth that the family didn’t respond to right away would metastasize. But even if they refuted every new story that appeared, it wasn’t clear whether anything they did could undo the damage.

As the Riches tried to fight back, Bauman found himself a target. On Twitter, he was called a “hatchet man” and a “fixer” who the DNC “assigned” to the family to hide the truth about Seth. Bauman says he’s never worked for the DNC, his name doesn’t appear in any DNC payment records, and he says the decision to help the family was his alone. Still, he says, his phone pinged with authentication alerts as people apparently tried to access his email account. Strangers called in the middle of the night and told him, “We know what you did,” before hanging up.



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**Shortly after its publication,** *Fox & Friends* co-host Steve Doocy read from Zimmerman’s story live on-air. “It seems very suspicious,” co-host Ainsley Earhardt chimed in. “You know what’s interesting — that the parents aren’t pursuing it.” Laura Ingraham, who joined the segment remotely, chimed in to blast the “frothing media” for its “aggressive lack of curiosity” in the story. By 9 a.m. on the day Zimmerman’s story appeared, Fox had run four different segments about the allegation that Rich was WikiLeaks’ source.

Yet within hours, Zimmerman's story was unraveling. The D.C. police told *The Washington Post* that there was "nothing that we can find that any of this is accurate." A former law-enforcement official "with firsthand knowledge of Rich's laptop" told *NBC News* the computer "never contained any emails related to WikiLeaks, and the FBI never had it." And in a bizarre twist, Wheeler tried to distance himself from his own quotes, telling CNN "he had no evidence to suggest Rich had contacted WikiLeaks before his death."

By that afternoon, Fox had recast Zimmerman's story to focus on the Rich family's statement that disputed the report. But the post still alleged Seth conspired with WikiLeaks. Joel wrote to Zimmerman on May 18th to ask Fox News to retract, and Zimmerman replied that Fox was "reviewing our story in the interest of ensuring fairness and accuracy."

Butowsky, for his part, proposed going "on the offensive" to defend the story, according to court records. On a May 19th call with Wheeler, Butowsky said he had a friend who would send the journalist Seymour Hersh a clip of Hersh and Butowsky's conversation from January — the one Butowsky recorded without telling Hersh — along with an ultimatum to give up his supposed FBI source: "If you don't give us that in three hours, a full recording of everything we have will be at every news agency tonight with your name and phone number on it," Butowsky described his plan to Wheeler, according to court records. "If you give it to us, you will never hear from us again." (Butowsky has affirmed in court that he suggested this plan, but it does not appear to have happened.)

As one part of Fox News was scrambling to figure out what had happened, Fox's loudest voice, Sean Hannity, continued to amplify the piece. Day after day, he built a larger and larger edifice atop a report whose foundations were crumbling. Even as the story started to fall apart, Hannity insisted that he was "not backing off." He would continue "asking these questions" about Rich's murder "because the media is trying to destroy a sitting president."

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Hannity was far from the only Fox pundit pushing the Rich-WikiLeaks report. Fox Business host Lou Dobbs hyped Zimmerman's story. Former

Speaker of the House Newt Gingrich said during an appearance on *Fox & Friends* that Rich “apparently was assassinated at four in the morning, having given WikiLeaks something like 23,000 — I’m sorry — 53,000 emails and 17,000 attachments.” Gingrich added, “Nobody is investigating that. And what does that tell you about what was going on? Because it turns out, it wasn’t the Russians.”

At one point, the online conspiracy theories and Hannity’s championing practically converged. An anonymous commenter on the 4chan message board claimed, without citing any evidence, that “the Seth Rich case has scared the shit out of certain high-ranking current and former Democratic Party officials.” Hours later, Hannity tweeted to his millions of followers that “Complete panic has set in at the highest levels of the Democratic Party.”

And then, as if things couldn’t get more bizarre, a Finnish German hacker who goes by Kim Dotcom injected himself into the controversy. Dotcom, whose real name is Kim Schmitz and who had fled to New Zealand to avoid extradition to the U.S. for racketeering charges, tweeted that he had “evidence” Rich worked with WikiLeaks. Hannity invited Dotcom to appear on his show. “Buckle up destroy Trump media,” Hannity tweeted. “Sheep that u all are!!!”

On May 23rd, a week after it was first published and went viral, Fox retracted Zimmerman’s story. A statement posted on FoxNews.com said it was “not initially subjected to the high degree of editorial scrutiny we require for all of our reporting.” A former Fox executive told the *Daily Beast*: “Retraction. Wow. Roger [Ailes] would brag at meetings how he was proud Fox never had to print a retraction.”

Hannity was unmoved. “All you in the liberal media,” he said on his radio show, “I am not Fox.com or FoxNews.com. I retracted nothing.” Porter Berry, Hannity’s executive producer, received a letter from Aaron Rich urging him not to put Kim Dotcom on air. “We appeal to your decency to not cause a grieving family more pain and suffering,” Aaron wrote.

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An audience of millions tuned in for Hannity's May 23rd show. But there would be no interview with Dotcom. Hannity said he had communicated with the Rich family. "Out of respect for the family's wishes, for now, I am not discussing this matter at this time," he said at the start of the show. He did not, however, apologize to the family or retract anything he had said. And in a since-deleted tweet sent after that night's show, he left the door cracked just enough to keep the conspiracy theory alive: "Ok TO BE CLEAR, I am closer to the TRUTH than ever. Not only am I not stopping. I am working harder. Updates when available. Stay tuned!"

**Three years later**, Fox's Seth Rich story and the conspiracy theory it was based on and amplified have been widely discredited by findings of the U.S. government, including Trump's Justice Department and two Republican-led congressional investigations into Russian interference in the 2016 election. Special Counsel Robert Mueller indicted 12 Russian intelligence agents for the cyberattacks on the DNC and the Clinton campaign, and his final report accuses Assange and WikiLeaks of making statements "designed to obscure" the source of the DNC leaks and of having "implied falsely" that Rich was his source. More recently, the FBI's section chief in charge of records testified in court that the bureau had searched for any records about Seth Rich or his murder and found nothing.

Further evidence produced in court casts even more doubt on Fox News' now-retracted May 16th story about Rich and WikiLeaks. The evidence suggests Zimmerman may not have spoken with the anonymous "federal investigator" in her report. In a voicemail message produced in court, Butowsky told Wheeler that one reason Fox "pulled the story" is because "Malia did not actually speak to someone. She heard." In a deposition, Wheeler testified Zimmerman told him "she did not physically speak to the FBI source. Someone else did."

But the people who assembled Fox's Rich-WikiLeaks story, and the network that published and broadcast it, have escaped accountability — so far. After the retraction, Jay Wallace, the network's president of news, said the story was "being investigated internally." (He also said it was "completely erroneous" that Fox published Zimmerman's story to "help detract" from the alleged Trump collusion with Russia.) Yahoo News last year cited a source "knowledgeable about the inquiry" who said Zimmerman's responses about the federal investigator "caused some editors at the network to question whether the source was in fact who she said he was, or even whether he existed." But the findings of Fox's investigation have never been released, and a Fox spokeswoman would

only say that Zimmerman’s story “was published to the website without review by or permission from senior management.”

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Hannity is still on TV every weeknight and is one of the most-watched cable-news hosts. Malia Zimmerman is still employed by Fox News, but hasn’t published a piece under her byline since August 2017. Her first story about Rich, published in January 2017, was also removed from FoxNews.com without explanation. (Citing ongoing litigation, Fox declined interview requests with Zimmerman, Wallace, and Hannity.)

To this day, Butowsky insists Zimmerman’s story is accurate. He says that Joel and Mary Rich “are not innocent bystanders” and “are in possession of material evidence indicating that Seth Rich downloaded the DNC emails, sent them to Wikileaks, and requested payment,” which Joel and Mary have denied. He did not provide evidence to support those claims. He says Zimmerman, who has described him in court filings as one of her sources, “had her own source and that’s who she relied on for the story.” Butowsky says he was sitting next to Refet Kaplan, a top editor at FoxNews.com, when Kaplan was told to retract Zimmerman’s story at the request of Kathryn Murdoch, the wife of James Murdoch and daughter-in-law of Rupert Murdoch, the chairman of Fox News’ parent company, News Corp. (A Fox News spokeswoman denied this allegation, saying there was “zero evidence” to back it up. James and Kathryn Murdoch declined to comment.) Butowsky has sued journalists, news organizations, and even lawyers for the Rich family. “I’m going to sue the hell out of a lot of firms,” he told a reporter. “I want to see these people choke on their nerves and go through the same crap I had to go through.”

Wheeler, after working in lockstep with Butowsky and Zimmerman for months, turned around and sued Fox News and Butowsky. He alleged that the quotes attributed to him in Zimmerman’s story were fabricated and that he’d been defamed and suffered damage to his reputation and his livelihood. Wheeler’s suit — which was later dismissed — created a public record of text messages, emails, and other communications that revealed for the first time the months-long coordination between him, Butowsky, and Zimmerman.

**“Mr. Butowsky,” Aaron Rich** began his letter. “It is a new year, and I wish that I could say I was able to enjoy the holidays but I was distracted due to you tweeting yet another lie about me.” On the next line, Aaron included the image of a tweet sent by Butowsky. It accused the outgoing deputy director of the FBI, Andrew McCabe, of covering up the FBI’s purported investigation into Seth’s murder and then added a new detail to the Seth Rich conspiracy theory: that the stolen DNC files had been “downloaded” by Aaron and Seth together.

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*Seth with his older brother, Aaron, at Aaron’s wedding in 2015, where Seth served as the best man.* COURTESY OF THE RICH FAMILY

In the aftermath of Fox News’ retraction, Aaron watched with growing alarm as Butowsky shifted his focus to him. Butowsky contributed to an op-ed published in *The Washington Times*, court records show, that said it was “well-known in the intelligence circles” that Seth and Aaron “downloaded the DNC emails” and were “paid by Wikileaks for that information.” (The op-ed was later retracted and the *Times* apologized.)

Butowsky fed information to a pro-Trump blogger who alleged that Aaron had obstructed the law-enforcement investigation into Seth's murder and had advance knowledge about Seth's murder but did nothing to stop it. "A huge thanks to Ed Butowsky," the blogger announced to his followers. "He's one of my sources, America."

Aaron, court records show, found himself sucked into the same vortex of online smears and lies that had sullied his brother's memory. He woke up every day wondering what fresh lies had been spread about him while he slept. He received death threats and vicious online harassment, installed security cameras at his home, and sought psychological treatment for anxiety. It went on like that for months, and Aaron pleaded with Butowsky to stop.

"These claims are absolutely false and ridiculous, not to mention painful and harmful," Aaron wrote in his letter dated January 12th, 2018. "I try to live my life as a private person, but every time you tweet out lies like this about me, it brings unwanted attention, scorn, and ridicule to my personal and professional life." Aaron asked Butowsky to retract "all of the lies you have told about me and my family" and to publicly apologize. No apology was given.

On March 13th, 2018, Joel and Mary Rich sued Fox News, Butowsky, and Zimmerman. Their lawsuit alleges intentional infliction of emotional distress, asserting Fox, Butowsky, and Zimmerman "intentionally exploited" the tragedy of Seth's murder, "including through lies, misrepresentations, and half-truths" with "disregard for the obvious harm that their actions would cause Joel and Mary."

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Two weeks later, Aaron sued Butowsky and a pro-Trump blogger for defamation and conspiracy in a Washington, D.C., court. A district court judge dismissed Joel and Mary's suit only for an appeals court to reverse that decision, writing in part: "We have no trouble concluding that — taking their allegations as true — the Riches plausibly alleged what amounted to a campaign of emotional torture." To defend itself, Fox News argues in court that Zimmerman's story was not a "sham" and that Fox did

not engage in “outrageous behavior” because it was “pursuing a story that was substantially true.”

The lawsuits filed by Joel, Mary, and Aaron Rich — which could go to trial as early as 2021 — pose a larger question: Is justice possible for the victims of online abuse and harmful lies? In a time when the president of the United States tosses off conspiracy theories on Twitter about public and private people, and when disinformation can reach millions of people online in an instant, it’s a question that has implications for all of us.

The Riches believe their suits also represent their best hope for closure and for restoring Seth’s reputation. The conspiracy theories about Seth and Aaron will live on at the fringes of the internet. But accountability in court could give the family the space to return to that brief moment after Seth’s murder when their grief belonged to them and them alone, and when they could mourn Seth in peace.

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